

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

2009 OCT -8 PM 2:18

JOSHUA HARVEY RICE,

Petitioner,

v.

FIRST FINANCIAL INS. CO.,
BIKE USA, INC. and
BROWN & BROWN OF
LEHIGH VALLEY, INC.

Respondents.

CASE NO. **3 09 0950**
JUDGE

NOTICE OF REMOVAL

In accordance with 28 U.S.C. §§ 1332, 1441 and 1446, Respondent Brown & Brown of Lehigh Valley, Inc. ("BBLV") hereby gives notice of removal of Civil Action Number 09299 from the Chancery Court of Wilson County, Tennessee, to the United States District Court for the Middle District of Tennessee. In support of removal, BBLV states as follows:

1. Petitioner Joshua Harvey Rice ("Mr. Rice") filed a Petition for Declaratory Judgment and Complaint (the "Rice Petition") against BBLV and Respondents First Financial Insurance Company ("FFIC") and Bike USA, Inc. ("Bike") on September 10, 2009. The Rice Petition was filed in the Chancery Court of Wilson County, Tennessee, and was designated by that court as Civil Action Number 09299.

2. Mr. Rice served BBLV with a copy of the Rice Petition *via* first class mail on September 18, 2009. In accordance with 28 U.S.C. § 1446(a), BBLV has attached a copy of all process and pleadings served upon it as Exhibit 1.

3. This matter is one that is between citizens of different States. The Rice Petition alleges that Mr. Rice is a resident of Wilson County, Tennessee. (*See* Rice Petition at ¶ 2).

4. The Rice Petition alleges that BBLV is a Pennsylvania corporation. (*See* Rice Petition at ¶ 5). BBLV is a Pennsylvania corporation, with its principal place of business in Bethlehem, Pennsylvania.

5. The Rice Petition alleges that FFIC is an insurer with its home office and administrative office in Illinois and Connecticut, respectively. (*See* Rice Petition at ¶ 3).

6. The Rice Petition alleges that Bike is a Pennsylvania corporation. (*See* Rice Petition at ¶ 4). Upon information and belief, Bike is a Pennsylvania corporation, with its principal place of business in Bethlehem, Pennsylvania.

7. The amount in controversy in this matter exceeds \$75,000. At issue in this matter is a personal injury suffered by Mr. Rice and whether an insurance policy issued by FFIC to Bike provides coverage for that personal injury. The personal injury suffered by Mr. Rice was a serious one. According to the Rice Petition, Mr. Rice suffered “a life-threatening twenty (20) foot fall to the ground” from a “portable stick ladder.” (*See* Rice Petition at ¶ 9). As a result of that fall, Mr. Rice “sustained severe bodily injuries, requiring two surgeries over the next three months and intensive physical therapy.” (*See* Rice Petition at ¶ 9). Mr. Rice is thus seeking damages that include “substantial medical expenses (past, present and future), extreme pain and suffering (past, present and future), lost wages, and loss of earning capacity.” (*See* Rice Petition at ¶ 9). Although Mr. Rice does not attach a monetary figure to those damages in the Rice Petition, he did so in the Complaint he previously filed against the manufacturers of the “portable stick ladder.” (*See* Sasser Affidavit at ¶ 5).¹ According to that Complaint, Mr. Rice is seeking to be awarded damages “in the amount of \$500,000” for his personal injury.² (*See* Sasser Affidavit

¹ The Affidavit of Kathryn Hays Sasser is attached hereto as Exhibit 2.

² Also according to that Complaint, the manufacturers of the “portable stick ladder” are a limited liability company and a Louisiana corporation, both with their principal places of business in Waterproof, Louisiana. (*See* Sasser

at ¶ 7). The FFIC insurance policy at issue appears to provide approximately \$2,000,000 in insurance coverage to Bike. (*See* Rice Petition at ¶ 13).

8. The United States District Court for the Middle District of Tennessee thus has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 (a) and (c)(1) because the parties are citizens of different States and the amount in controversy exceeds \$75,000. This action is therefore removable pursuant to 28 U.S.C. § 1441(a).

9. As required by 28 U.S.C. § 1446(d), BBLV has given written notice of the removal of this case to Mr. Rice through his counsel of record and will promptly file a true and correct copy of this Notice of Removal with the Clerk of the Chancery Court of Wilson County, Tennessee.

Respectfully submitted



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*Attorneys for Respondent Brown & Brown
of Lehigh Valley, Inc.*

Affidavit at ¶ 6). According to the Louisiana Secretary of State, Defendant Strongbuilt Imports, LLC is a Louisiana limited liability company. (*See* Sasser Affidavit at ¶ 6).

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing has been served on the following this the 8th day of October, 2009:

Via U.S. Mail

Martin D. Holmes
Dickinson Wright PLLC
424 Church Street, Suite 1401
Nashville, TN 37219

A handwritten signature in black ink, reading "Kaitlyn Sasser", is written over a horizontal line. The signature is cursive and fluid.

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